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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,216

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Tadafumi Hirose

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02/19/2009

ARENT FOX LLP

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WASHINGTON, DC 20036

EXAMINER

WALTERS, JOHN DANIEL

ART UNIT

PAPER NUMBER

3618

NOTIFICATION DATE

DELIVERY MODE

02/19/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com

IPMatters@arentfox.com

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<b>Office Action Summary</b>	<b>Application No.</b> 10/562,216	<b>Applicant(s)</b> HIROSE ET AL.	
	<b>Examiner</b> JOHN D. WALTERS	<b>Art Unit</b> 3618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>Multiple (2)</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

### DETAILED ACTION

Claims 1 - 8 have been examined.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 - 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (6,758,169) in view of Chan (6,299,195). Suzuki discloses an engine generator comprising:

- a frame formed from a base frame and a pair of left and right side frames (Fig. 4, item 4);
- a wheel supporting said base frame (Fig. 4, item 26);
- an engine (Fig. 1, item 2);
- a work machine (Fig. 1, item 3);
- an electrical component, contained within a control box, mounted upon said frame (Fig. 4, un-numbered item above item 15).

Suzuki does not make use of an adjustable handle assembly. Chan, however, discloses a golf cart comprising:

- a moving handle (Fig. 1, item 48);

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- a pair of right and left handle bars, each having a handle grip (Fig. 1, items 52 and 54);
- a cross member connecting said handle bars (Fig. 1, item 55);
- said handle bars being pivotal between a working position and a storage position (Figs. 1 and 5);
- said handle bars acting as a bumper, i.e. protecting an end of said cart, when in said storage position (Fig. 5).

In regards to claim 1, while Chan discloses a cross member connecting end parts of a pair of handle bars, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to provide a cross member connecting middle parts of handle bars, since it has been held that rearranging parts of an invention involves only routing skill in the art. *In re Japikse*, 86 USPQ 70.

It would have been obvious to one of ordinary skill in the art at the time the instant invention was made to combine the handle of Chan with the engine generator of Suzuki in order to provide a control means for users of various physical sizes. An adjustable, pivoting handle would allow for a user to rotate said handle up to the position where it would be comfortable to hold and use.

### ***Allowable Subject Matter***

Claims 5 - 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, either alone or in combination, neither disclose nor suggest a pivotal cart handle wherein said handle automatically locks when said handle is pivoted into a working position.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Krohn et al. (5,441,297) disclose a power unit cart;
- Kikuchi (5,924,393) discloses an engine generator;
- Burkholder et al. (6,541,718) disclose a switch assembly for a portable generator;
- Wood et al. (6,742,995) disclose an air compressor assembly;
- Buck et al. (7,224,578) disclose an ergonomic control panel for a portable electric generator;
- Mizushima (D277,954) discloses an engine generator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN D. WALTERS whose telephone number is (571)272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Ellis/  
Supervisory Patent Examiner, Art Unit 3618

John D. Walters  
Examiner  
Art Unit 3618

/J. D. W./  
Examiner, Art Unit 3618